

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DAVID R. JONES, JR.,

Plaintiff,

DECISION AND ORDER

07-CV-6208L

v.

C.O. KNICHT,

Defendant.

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Plaintiff, David R. Jones, Jr., appearing *pro se*, commenced this action under 42 U.S.C. § 1983. Plaintiff, who at the time of the filing of the complaint was an inmate in the custody of the New York State Department of Correctional Services (“DOCS”), alleges that defendant C.O. Knight violated plaintiff’s constitutional rights by denying him a kosher food tray on July 1, 2006, while plaintiff was confined at Auburn Correctional Facility.

On October 29, 2007, the Court issued a Decision and Order granting plaintiff’s motion to proceed *in forma pauperis*. The Court also found that, as pleaded, plaintiff’s allegations, which showed no more than negligence on the part of Knight, failed to state a cognizable claim under § 1983. The Court granted plaintiff until December 3, 2007 to file an amended complaint setting forth his claim in more detail. The Court further directed that “in the event plaintiff fails to file an


amended complain as directed above by December 3, 2007, the complaint shall be dismissed with prejudice without further order of the Court.” Dkt. #3 at 6.

Plaintiff has not filed an amended complaint, nor has he sought an extension of time to do so. In addition, the copy of the Court’s October 29 Decision and Order that was mailed to plaintiff at the mailing address given in the complaint, Elmira Correctional Facility, was returned as undeliverable on November 8, 2007. The DOCS internet inmate lookup service, <http://nysdocslookup.docs.state.ny.us>, indicates that plaintiff was released from custody upon the expiration of his sentence on May 24, 2007. In light of those facts, and pursuant to the Court’s October 29, 2007 Decision and Order, the complaint is therefore dismissed.

### CONCLUSION

The complaint is hereby dismissed with prejudice.

IT IS SO ORDERED.

  
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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
December 12, 2007.